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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,401	09/16/2004	James P. Schalla	03-1241	5400
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OSTRAGER CHONG FLAHERTY & BROITMAN, P.C.			EXAMINER	
570 LEXINGTON AVENUE			WILKENS, JANET MARIE	
FLOOR 17			ART UNIT	PAPER NUMBER
NEW YORK, NY 10022-6894			3637	
			NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)
	10/711,401	SCHALLA, JAMES P.
Examiner	Art Unit	
Janet M. Wilkens	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 03 September 2007.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-4,6-15 and 17-38 is/are pending in the application.
4a) Of the above claim(s) 23-38 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-4,6-15 and 17-22 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) Interview Summary (PTO-413).
Paper No(s)/Mail Date. _____
5) Notice of Informal Patent Application
6) Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyer et al (3,311,434) in view of Mrocca (5,142,835). Dyer teaches a cart comprising: a one-piece plastic shell (41) having insulation (46) and an inner panel/base layer (48) included therewith. The shell includes two sides and a top. The other sides include doors/decorative panels (34,36) with hinges (38) attached thereto and there is a bottom (18) attached to the shell. Also on the cart are casters (20). For claim 1, Dyer fails to teach that the shell includes the bottom portion of the cart. However, to make formerly separate features of a structure from a single element involves only routine skill in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the cart of Dyer by making the two sides, top and bottom all one piece, for aesthetic reasons, to simplify construction of the cart, etc. Second, Dyer fails to teach that the insulation contains a reaction injection molded layer and foam layer. Mrocca teaches the use of reaction injection molded material and foam in an insulation panel (see abstract). It would have been obvious to one having ordinary

skill in the art at the time of the invention to modify the cart of Dyer by using an alternate type of insulation/inner wall therein, i.e. using the reaction injection molded insulation layer/foam such as is taught by Mrocca instead of the insulation and inner layer (48) presently used, depending on the insulative qualities required/desired for the cart. Furthermore, these two types of insulation are functional equivalents and it would appear that either type would work equally well in the cart of Dyer. As for the low weight and high thermal insulation properties of the shell, being that the shell of Dyer is plastic, it inherently would be substantially low weight (as compared to other types of materials, such as most metals) and would have high thermal insulation properties (high as compared with other materials which have low insulation properties, such as wood).

For claim 6, although Dyer teaches tray members (16), no tray member coupled to the top is disclosed. However, to add material such as VECLRO to the underside of one of more of the trays and to the top of the cart would allow a tray(s) to be set on the cart in a more secure manner so that the contents on the tray and/or the tray itself can be inspected, temporarily set, etc on the top of the cart.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyer in view of Mrocca as applied to claims 1 and 6-8 above, and further in view of Cunningham (2,725,271). As stated above, Dyer in view of Mrocca teaches the limitations of claim 1, including a cart with insulation material therein. For claim 2, Dyer in view of Mrocca fails to teach that the material has fasteners embedded therein. Cunningham teaches a frame and hinge fasteners (see Fig. 12) embedded within insulation of a door member. It would have been obvious to one having ordinary skill in

the art at the time of the invention to modify the door/cart connection of Dyer in view of Mrocca by using alternate hinges therein, i.e. using the embedded hinges of Cunningham therein instead of the external hinges presently used, since these hinges are functional equivalents and either would work equally well between the doors and cart of Dyer. The hinges of Cunningham, if used in the doors of Dyer, providing more discrete hardware and providing hinges that are reinforced.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyer in view of Mrocca as applied to claims 1 and 6-8 above, and further in view of Greenwald (1,872,733). As stated above, Dyer in view of Mrocca teaches the limitations of claim 1, including a cart with insulation material within an inner and outer shell therein. Dyer also teaches protruding shelf members (50) therein. For claims 9 and 10, Dyer in view of Mrocca fails to teach that the inner shell has recessed shelf grooves therein. Greenwald teaches recessed shelf grooves (B). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the inner shell of Dyer in view of Mrocca by using alternate shelf holding means therein, i.e. using the recessed members of Greenwald therein instead of the protruding members presently used, since these members are functional equivalents and either would work equally well for holding the shelves within the cart. The recessed members of Greenwald, if used in the cart of Dyer, providing less obtrusive shelf holding means inside the cart.

Claims 11, 12, 17-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyer in view of Kesling (3,091,946) and Mrocca. Dyer teaches a cart comprising: a one-piece plastic shell (41; inherently impermeable to fluids) having

insulation (46) and an inner panel/base layer (48) included therewith. The shell includes two sides and a top. The other sides include doors/decorative panels (34,36) with hinges (38) attached thereto and there is a bottom (18) attached to the shell. Also on the cart are casters (20). First for claim 11, Dyer fails to teach that the shell includes the bottom portion of the cart. However, to make formerly separate features of a structure from a single element involves only routine skill in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the cart of Dyer by making the sides, top and bottom all one piece, for aesthetic reasons, to simplify construction of the cart, etc. Second, Dyer fails to teach that the insulation is reaction injection molded with a base layer and foam layer. Mrocca teaches the use of reaction injection molded material and foam as insulation (see abstract). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the cart of Dyer by using an alternate insulation/inner layer therein, i.e. using the reaction injection molded insulation layer/foam such as is taught by Mrocca instead of the insulation/inner layer presently used, depending on the insulative qualities required/desired for the cart. Furthermore, these two types of insulation are functional equivalents and it would appear that either type would work equally well in the cart of Dyer. As for the low weight and high thermal insulation properties of the shell, being that the shell is plastic, it inherently would be substantially low weight (as compared to other types of materials, such as most metals) and would have high thermal insulation properties (high as compared with other materials which have low insulation properties, such as wood). Third, for claims 11 and 12, Dyer fails to

teach reinforcement members within the insulation. Kesling teaches the use of fiberglass in another material for reinforcement purposes (column 5, lines 34-58). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the cart of Dyer by adding fiberglass particles in the insulation, such as is taught by Kesling, for strengthening purposes.

For claim 17, although Dyer teaches tray members (16), no tray member coupled to the top is disclosed. However, to add material such as VECLRO to the underside of one of more of the trays and to the top of the cart would allow a tray(s) to be set on the cart in a more secure manner so that the contents on the tray and/or the tray itself can be inspected, temporarily set, etc on the top of the cart.

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyer in view of Kesling and Mrocca as applied to claims 11, 12, 17-19 and 22 above, and further in view of Cunningham. As stated above, Dyer in view of Kesling and Mrocca teaches the limitations of claim 11, including a cart with insulation material therein. For claims 13 and 14, Dyer fails to teach that the material has fasteners embedded therein. Cunningham teaches a frame and hinge fasteners (see Fig. 12) embedded within insulation of a door member. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the door/cart connection of Dyer in view of Kesling and Mrocca by using alternate hinges therein, i.e. using the embedded hinges of Cunningham therein instead of the external hinges presently used, since these hinges are functional equivalents and either would work equally well between the doors and cart of Dyer. The hinges of Cunningham, if used in

the doors of Dyer, providing more discrete hardware and providing hinges that are reinforced.

Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyer in view of Kesling and Mrocca as applied to claims 11, 12, 14-19 and 22 above, and further in view of Greenwald. As stated above, Dyer in view of Kesling and Mrocca teaches the limitations of claim 11, including a cart with insulation material within an inner and outer shell therein. Dyer also teaches protruding shelf members (50) therein. For claims 20 and 21, Dyer in view of Kesling and Mrocca fails to teach that the inner shell has recessed shelf grooves therein. Greenwald teaches recessed shelf grooves (B). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the inner shell of Dyer in view of Kesling and Mrocca by using alternate shelf holding means therein, i.e. using the recessed members of Greenwald therein instead of the protruding members presently used, since these members are functional equivalents and either would work equally well for holding the shelves within the cart. The members of Greenwald, if used in the cart of Dyer, providing less obtrusive shelf holding means inside the cart.

Response to Arguments

Applicant's arguments filed September 3, 2007 have been fully considered but they are not persuasive. Namely, although Dyer fails to teach that the insulation includes a reaction injection molded layer and foam and fails to specifically state that the plastic shell is low weight and has high insulation properties, as stated above in the art

rejections, it would have been obvious to use an alternate insulation therein, i.e. using reaction injection molded insulation layer/foam as taught by Mrocca instead of the insulation/inner layer presently used, depending on the insulative qualities required/desired for the cart. As for the low weight and high thermal insulation properties of the shell, being that the shell is plastic, it inherently would be substantially low weight (as compared to other types of materials, such as most metals) and would have high thermal insulation properties (high as compared with other materials which have low insulation properties, such as wood).

Since the 103 rejections using the references of Cunningham, Greenwald and Kesling and using knowledge common in the art statements do not contain arguments with respect to their teachings and/or their individual motivations to combine with Dyer, these references/statements will not be discussed further in this section.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkens
November 20, 2007

Jan Wilkens
JANET M. WILKENS
PRIMARY EXAMINER
PAUT363